

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION

MDL No. 2804

Case No. 1:17-md-2804

Judge Dan Aaron Polster

**OPTUMRX, INC. AND EXPRESS SCRIPTS, INC.'S
BELLWETHER STRIKES SUBMISSION**

In accordance with the Court's Order Regarding PBM Bellwether Process (Dkt. 5166), as modified by the Court's October 4, 2023 text order, OptumRx and Express Scripts identify the following two cases as their PBM bellwether strikes:

- *Strafford County v. Evernorth Health, Inc., et al.*, No. 1:23-op-45006-DAP
- *County of Summit, Ohio v. Express Scripts, Inc.*, No. 1:23-op-45001-DAP

The following two cases selected by the Plaintiffs' Executive Committee therefore now become PBM bellwethers:

- *City of Independence, Missouri v. Williams, et al.*, No. 1:19-op-45371-DAP¹
- *City of Rochester v. Purdue Pharma, L.P., et al.*, No. 1:19-op-45853-DAP

The parties' bellwether picks and today's strikes will necessarily result in PBM bellwethers from at least three different federal circuits, as the Court contemplated during the August 30, 2023

¹ Case number 1:19-op-45371-DAP is a multi-plaintiff case; the Plaintiff's Executive Committee selected the claims of plaintiff City of Independence, Missouri, as a bellwether candidate. OptumRx and Express Scripts agree that the claims of City of Independence should be severed such that the PBM bellwether consists solely of the claims of City of Independence.

status conference.²

OptumRx and Express Scripts reserve all rights, defenses, and objections with respect to the above-listed cases.

Date: October 25, 2023

Respectfully submitted,

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² See Dkt. 5168 (Tr. of Status Conf. on Aug. 30, 2023) at 29:21–24 (“We end up with four cases in three different circuits, . . . that isn’t the problem, okay? But I want to have at least three different circuits in the four, all right?”), 37:8–10 (“And, again, . . . my objective is to end up with four cases in at least three different circuits because I think that makes sense.”).